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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

8 FRANK ARANT,

2:12-CV-1386 JCM (GWF)

9 Plaintiff(s),

10 v.

11 J.P. MORGAN CHASE, INC., et al.,

12 Defendant(s).
13

14 ORDER

15 Presently before the court is the report and recommendation of Magistrate Judge Foley (doc.
16 # 35) advising that plaintiff Frank Arant's complaint be dismissed for lack of proper service. Plaintiff
17 Frank Arant filed objections (doc. # 36) to which defendants responded (doc. # 37).

18 **I. Legal standard**

19 A party may file specific written objections to the findings and recommendations of a United
20 States magistrate judge made pursuant to Local Rule IB 1–4. 28 U.S.C. § 636(b)(1)(B); LR IB 3–2.
21 Upon the filing of such objections, the district court must make a de novo determination of those
22 portions of the report to which objections are made. 28 U.S.C. § 636(b)(1)(C); LR IB 3–2(b). The
23 district court may accept, reject, or modify, in whole or in part, the findings or recommendations
24 made by the magistrate judge. *Id.*

25 However, the district court need not conduct a hearing to satisfy the statutory requirement
26 that the district court make a “de novo determination.” *United States v. Raddatz*, 447 U.S. 667, 674
27 (1980) (observing that there is “nothing in the legislative history of the statute to support the
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1 contention that the judge is required to rehear the contested testimony in order to carry out the
2 statutory command to make the required ‘determination’’).

3 **II. Discussion**

4 Magistrate Judge Foley’s report and recommendation advises that the complaint be dismissed
5 pursuant to Federal Rule of Civil Procedure 4(m) because plaintiff failed to effect proper service
6 upon defendants within 120 days.

7 Plaintiff admits that he has not properly served defendants, but indicates that he was confused
8 as to the application of the Federal Rules of Civil Procedure. Plaintiff also states that he would like
9 to amend his complaint, and that he will re-file and properly serve defendants if he is given leave to
10 do so.

11 Accordingly,

12 After having conducted a de novo review of those portions of the report objected to,

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Magistrate Judge Foley’s
14 report and recommendation (doc. # 35) be, and the same hereby is, ADOPTED in its entirety.

15 IT IS FURTHER ORDERED plaintiff Frank Arant’s complaint is DISMISSED WITHOUT
16 PREJUDICE.

17 IT IS FURTHER ORDERED that defendants’ motion to dismiss (doc. # 25) is DENIED as
18 moot.

19 DATED February 13, 2014.

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22 UNITED STATES DISTRICT JUDGE
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